



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

CORPUS CHRISTI MEDICAL CENTER
c/o HOLLOWAY & GUMBERT
3701 KIRBY DRIVE, SUITE 1288
HOUSTON TX 77098-3926

Carrier's Austin Representative Box

#01

Respondent Name

LIBERTY MUTUAL INSURANCE COMPANY

MFDR Date Received

December 3, 2004

MFDR Tracking Number

M4-05-2690-02

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "...To date, a total of \$55,016.05 has been paid in connection with this claim...this claim would then be reimbursed at the stop-loss rate of 75% as the total audited charges exceed the minimum stop-loss threshold of \$40,000.00...The carrier appears to have carved out the implants and paid these separately using the per-diem reimbursement methodology, and taking a 10% discount pursuant to a First Health PPO contract...Both the contract rate and TWCC rate result in the same reimbursement, which is 25% discount from billed charges..."

Amount in Dispute: \$10,071.95

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary dated January 4, 2005: "...Total billed charge: \$86,784.00...Total payment made per TX FS: \$55,016.05. No PPO discount was applied. Liberty Mutual does not believe that Corpus Christi Medical Center is due any further reimbursement for services rendered..."

Response submitted by: Liberty Mutual Insurance Company

Respondent's Supplemental Position Summary dated February 12, 2013: "...Requestor has failed to meet the Austin Third Court of Appeals' mandate that, to qualify for reimbursement under the Stop-Loss Exception...a hospital must demonstrate two things: the services it provided during the admission were unusually costly and unusually extensive, and its total audited charges exceeded \$40,000. Requestor bears the burden of proof in this matter...The operative report documents no intraoperative complications and describes the Claimant's condition upon leaving the operating suite as 'satisfactory'. Post-operative records note the Claimant was doing well on the first day after surgery, and was alert and afebrile...The requestor in this matter offers neither explanation nor discussion as to how the services it provided may be considered unusually costly. ..Respondent appropriately issued payment per the standard Texas surgical per diem rate..."

Response Submitted by: Hanna & Plaut LLP

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
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December 3 through 6, 2003	Inpatient Hospital Services	\$10,071.95	\$0.00
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FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 27 *Texas Register* 12282, applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital for the date of admission in dispute.
 - Effective July 13, 2008, the Division's rule at former 28 Tex. Admin. Code § 134.401 was repealed. The repeal adoption preamble specified, in pertinent part: "Section 134.401 will continue to apply to reimbursements related to admissions prior to March 1, 2008." 33 *TexReg* 5319, 5220 (July 4, 2008). Former 28 Tex. Admin. Code § 134.401(a) (1) specified, in pertinent part: "This guidelines shall become effective August 1, 1997. The Acute Care Inpatient Hospital Fee Guideline (ACIHFG) is applicable for all reasonable and medically necessary medical and/or surgical inpatient services rendered after the Effective Date of this rule in an acute care hospital to injured workers under the Texas Workers' Compensation Act." 22 *TexReg* 6264, 6306 (July 4, 1997).

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- Z695(F) - the charges for this hospitalization have been reduced based on the fee schedule allowance
- Z557 (C) – this contracted hospital has agreed to reduce this charge below fee schedule or usual and customary charges for your business
- PA (C) – First Health Network
- Z560(F) – the charge for this procedure exceeds the fee schedule or usual and customary values as established by Ingenix

Dispute M4-05-2690 was originally decided on June 13, 2005 and subsequently appealed to a judicial hearing at the 345th Judicial District under case number D-1-GN-08-001393. This dispute was then remanded to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) pursuant to a January 30, 2012 Judicial District order of remand. As a result of the remand order, the dispute was re-docketed at medical fee dispute resolution and is hereby reviewed.

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will

address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c) (6) (A) (i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c) (6) (A) (v); therefore the audited charges equal \$86,784.00. The division concludes that the total audited charges exceed \$40,000.
2. The requestor in its position statement asserts that “...this claim would then be reimbursed at the stop-loss rate of 75% as the total audited charges exceed the minimum stop-loss threshold of \$40,000.00...” The requestor presumes that it is entitled to the stop loss method of payment because the audited charges exceed \$40,000. As noted above, the Third Court of Appeals in its November 13, 2008 opinion rendered judgment to the contrary. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services.” The requestor failed to discuss or demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 TAC §134.401(c) (6).
3. In regards to whether the services were unusually costly, the requestor presumes that because the bill exceeds \$40,000, the stop loss method of payment should apply. The Third Court of Appeals’ November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The requestor failed to discuss the particulars of the admission in dispute that constitute unusually costly services; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c) (6).
4. 28 Texas Administrative Code §134.401(b) (2) (A) titled General Information states, in pertinent part, that “The basic reimbursement for acute care hospital inpatient services rendered shall be the lesser of:
 - (i) a rate for workers’ compensation cases pre-negotiated between the carrier and the hospital;
 - (ii) the hospital’s usual and customary charges; and
 - (iii) reimbursement as set out in section (c) of this section for that admission

In regards to a pre-negotiated rate, the services in dispute were reduced in part with the explanation “Z557 (C) – this contracted hospital has agreed to reduce this charge below fee schedule or usual and customary charges for your business” and “PA (C) – First Health Network.” The respondent’s position summary states, “No PPO discount was applied.” Additionally, no documentation was found to support a contract between health care provider and insurance carrier. Therefore 28 Texas Administrative Code §134.401(b) (2) (A) (i) does not apply.

In regards to the hospital’s usual and customary charges in this case, review of the medical bill finds that the health care provider’s usual and customary charges equal \$65,726.00.

In regards to reimbursement set out in (c), the division determined that the requestor failed to support that the services in dispute are eligible for the stop-loss method of reimbursement; therefore 28 Texas Administrative Code §134.401(c)(1) titled Standard Per Diem Amount and §134.401(c)(4) titled Additional Reimbursements, apply. The division notes that additional reimbursements under §134.401(c) (4) apply only to bills that do not reach the stop-loss threshold described in subsection (c) (6) of this section.

- Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c) (3) (ii) states, in pertinent part, that “The applicable Workers’ Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission...” The length of stay was two surgical days and one ICU/CCU day; therefore, the standard per diem amounts of \$1,118.00 and \$1,560.00 apply respectively. The per diem rates multiplied by the allowable days result in a total allowable amount of \$3,796.00.

- 28 Texas Administrative Code §134.401(c) (4) (A), states “When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274).” Review of the requestor’s medical bill finds that the following items were billed under revenue code 278 and are therefore eligible for separate payment under §134.401(c)(4)(A):

Rev code	Itemized Statement Description	Cost Invoice Description	UNITS / Cost Per Unit	Total Cost	Cost + 10%
278	Stimulator bone implant	Invoices for these implants were not submitted for review	1	NA	NA
	Putty Grafton 123110 M		1	NA	NA
	Rod 50mm		2	NA	NA
	Bone filler		2	NA	NA
	Cage 25mm		3	NA	NA
	Cap		4	NA	NA
	Screw bone 60mm		4	NA	NA
			TOTAL ALLOWABLE	\$0.00	

The division concludes that the total allowable for this admission is \$3,796.00 per diem plus \$0.00 carve-outs. The respondent issued payment in the amount of \$55,016.05. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 Texas Administrative Code §134.401(c) (1) titled *Standard Per Diem Amount*, and §134.401(c) (4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 additional reimbursement for the disputed services.

Authorized Signature

		May , 2013
Signature	Medical Fee Dispute Resolution	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a *certificate of service demonstrating that the request has been sent to the other party.***

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.